

Notice of Allowability

Application No.

10/050,665

Examiner

David Guzo

Applicant(s)

JUANG ET AL.

Art Unit

1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 4/1/04, 4/5/04 and 4/12/04.
2. ☒ The allowed claim(s) is/are 1,3-14,16-23 and 25-28.
3. ☒ The drawings filed on 12 April 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 7/14/04.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Y. Rocky Tsao on 7/14/04.

The application has been amended as follows:

In the **Specification**:

On Page 3, replace the 4th paragraph with the following:

In preferred embodiments, a non-permissive cell described herein is an insect cell, e.g., a *Drosophila* cell (e.g., an S2 cell or Kc cell) or a mosquito cell (e.g., a C6/36 cell); or a mammalian cell (preferably a human cell, e.g., a human primary cell or an established cell line). Preferred promoters that are active in a host cell and inactive in a non-permissive cell include, e.g., the viral polyhedrin promoter or the P10 viral promoter. Preferred promoters that are active in a non-permissive cell, e.g., a mammalian cell, can include, e.g., a CMV promoter, a RSV promoter, or a SV40 promoter. Other preferred promoters that are active in a non-permissive cell, e.g., an insect cell, include a heat shock protein promoter (e.g., hsp70), a *Orgyia pseudotsugata* nuclear polyhedrosis virus immediate early promoter, an OP1E2 promoter, a MT promoter, or an actin 5C promoter. The detectable marker is preferably a fluorescent protein, e.g., a green fluorescent protein (GFP) or an enhanced GFP (EGFP).

On Page 4, replace the description of Figure 1 with the following:

Figure 1 (Parts A-D) illustrates the map of the baculovirus transfer vectors (A) pBacEGFP, (B) pBacEGFP/CMV DsRed (C) pBacEGFP/hsp70 EGFP and (D) pBacEGFP/actin5C EGFP.

In the Claims:

Claim 11 (Currently Amended) The recombinant baculovirus of claim 6, wherein the second promoter is a heat shock protein promoter, an *Orgyia pseudotsugata* nuclear polyhedrosis virus immediate-early promoter, a metallothionein (MT) promoter, or an actin 5C promoter.

The amendment to claim 11 and the specification on page 3 was necessary to clarify that the immediate early promoter was from a *O. pseudotsugata* nuclear polyhedrosis virus. The amendment to the Brief Description of the Drawings on Page 4 was necessary to indicate that Figure 1 consisted of four separate sections (Parts A-D).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Guzo, Ph.D., whose telephone number is (571) 272-0767. The examiner can normally be reached on Monday-Thursday from 8:00 AM to 5:30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Irem Yucel, Ph.D., can be reached on (571) 272-0781. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Guzo
July 16, 2004


DAVID GUZO
PRIMARY EXAMINER